SPECIFIC PERFORMANCE—DEFENDANT WILL NOT BE COMPELLED TO BREAK SECOND CONTRACT.—The plaintiff made a contract with the defendant for the purchase of real estate. When the time for performance arrived, the defendant refused to make a deed, as he was under a subsequent contract duty to convey to another, who had no notice of the contract with the plaintiff. The plaintiff requested specific performance of the contract. *Held,* that specific performance should not be decreed, with a *dictum* that equity will not and cannot compel the defendant to break this second contract even had a conveyance not been made. *Saperstein v. Mechanics' and Farmers' Savings Bank of Albany* (1920, N. Y.) 126 N. E. 708.

It would seem that this dictum is unsound, as the plaintiff and the second purchaser have equal equities and the equity of the plaintiff, being prior in time, should prevail.

STATUTE OF LIMITATIONS—REVIVAL OF OLD DEBT.—The plaintiff had conveyed to the defendant a tract of coal land. The consideration had not been paid, and after the statute of limitations had run, the defendant promised to pay a much larger sum for the same land. *Held,* that this subsequent promise, even though verbal and for a larger consideration than the original promise, revived the old debt. *Abdill v. Abdill* (1920, Ill.) 126 N. E. 543.

The plaintiffs were the grandchildren of the defendant's housekeeper, to whom the defendant was indebted for $3,900 for services rendered in the past. After the death of the housekeeper and the running of the statute of limitations, the defendant verbally promised to pay the housekeeper's daughter the $3,900, payable at the death of the defendant if she survived him, otherwise to her children, the plaintiffs. *Held,* that the plaintiffs should not recover because the subsequent promise had to be in writing because of a statute; also because the existing debt was not consideration for a promise by the debtor to pay the heirs of the creditor, since such promise could not bind the creditor's estate. *Mortenson v. Knudson* (1920, Iowa) 176 N. W. 892.

The directors of the plaintiff corporation turned over a sum of money to its president to pay its debts without specifying any particular debts. The president, who owned all the stock in the defendant corporation, paid a claim of the defendant which had been barred by the statute. This suit was brought to recover the money so paid. *Held,* that the plaintiff could not recover. *Kelly Asphalt Block Co. v. Brooklyn Alcatraz Asphalt Co.* (1920, App. Div.) 180 N. Y. Supp. 805.

For discussion of the interesting questions here involved with reference to the revival of debts barred by the statute of limitations, see COMMENT (1915) 24 YALE LAW JOURNAL, 242; see COMMENT (1919) 28 YALE LAW JOURNAL, 817; (1919) 29 YALE LAW JOURNAL, 237; (1920) 29 YALE LAW JOURNAL, 804.

SURETYSHIP—JOINT PROMISORS—DEFENCES.—The plaintiff sued on a written document by which, in consideration of the plaintiff's making advances to the Interboro Brewing Company, the defendant assumed "a joint and several liability with said company for the repayment" of advances made in pursuance of this agreement. The defendant set up several matters which would amount to a defence for a surety. To these defences the plaintiff demurred. *Held,* that the defences were good. *Fischer v. Mahland* (1920, App. Div.) 181 N. Y. Supp. 179.

It has been held that where one becomes a *joint* obligor with another his promise cannot be within the statute of frauds as a promise to answer for the debt of another. *Gibbs v. Blanchard* (1867) 15 Mich. 292. In so holding the court sacrificed substance to mere form. See Anson, *Contract* (3d Am. ed. by Corbin, 1919) 388 note. In the instant case the court declares that the promise "is not strictly a guaranty," but it very properly holds that the contract is one of suretyship and that the defendant has the usual defences of a surety.